

# **MODEL POLICY FOR SERVICE AND EMOTIONAL SUPPORT ANIMALS AT DISTRICT FACILITIES**

This Model Policy for Service and Emotional Support Animals at District Facilities is provided as a courtesy by the Utah Division of Risk Management. The Model Policy was developed following consultation with officials from the US Department of Justice, the Office of Civil Rights and the Equal Employment Opportunity Commission.

While the Model Policy has been reviewed for legal compliance, nothing in the Model Policy should be construed as legal advice. Any decisions regarding policy implementation should be made in consultation with District Counsel.



# **Service and Emotional Support Animals at District Facilities**

## **I. Access to Services, Programs and Activities**

- A. The District has the goal of providing equal access to all services, activities and programs it offers. Students, employees or members of the public will not be denied access to services, programs or activities due to their legitimate use of a service animal.
- B. District protocols for addressing the needs of those utilizing service animals are derived from 28 CFR Section 35, Utah Code Title 62A, Chapter 5b, and applicable published guidance from the U.S. Department of Justice.
- C. The District may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. Those requirements must be based upon actual risks, not on mere speculation, stereotypes, or generalizations about people with disabilities.

## **II. Definitions**

- A. “Direct Threat” – A significant risk to the health and safety of others that cannot be eliminated by a modification to policies, practices or procedures, or by the provision of auxiliary aids or services.
- B. “Disability” – As defined in 42 U.S.C. 12102 of the Americans with Disabilities Act, as may be amended in the future, and 28 CFR Section 36 of the Code of Federal Regulations, as may be amended in the future.
- C. “Emotional Support Animal” (ESA) – A domesticated animal that is individually necessary for the emotional support, well-being, comfort, or companionship of an individual with a disability. The tasks performed by an ESA must be directly related to the individual’s disability. Non-human primates are specifically excluded from this definition.
- D. “Service Animal” – Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. Other species of animals, whether

wild or domestic, trained or untrained, are not service animals for the purpose of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. The provision of emotional support, well-being, comfort, or companionship does not constitute work or tasks for the purposes of this definition.

### III. General Provisions

- A. Other than service animals as defined above, personally owned animals are not permitted at District facilities without the written consent of a District representative.
- B. The District will reasonably modify its policies, practices or procedures to permit the use of a service animal by an individual with a disability.
- C. Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of the District facilities where members of the public, participants in services, programs or activities, or invitees are allowed to go.
- D. The District may ask an individual with a disability to remove a service animal from its facilities if the animal is out of control and the animal's handler does not take effective action to control it.
- E. The District may ask an individual with a disability to remove a service animal from its facilities if the animal is not housebroken.
- F. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a leash, harness, or other tether would interfere with the animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).
- G. The District may ask an individual with a disability to remove a service animal from its facilities if the animal poses a direct threat.
- H. Neither the District nor any of its employees are responsible for the care or supervision of a service animal, unless documentation exists specifically requiring such care or supervision by the District or its employees.
- I. If the need for a service animal is not readily apparent, the animal's owner may be required to affirm that the animal is required because of a disability. Additionally, the

animal's owner may be required to articulate what work or task the animal has been trained to perform.

- J. A service animal's owner may be required to provide documentation indicating the service animal has been licensed in the jurisdiction(s) in which the owner resides.

#### IV. Miniature Horses

- A. The District shall make reasonable modification in its policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.
- B. In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, the District may consider:
  - 1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
  - 2. Whether the handler has sufficient control of the miniature horse;
  - 3. Whether the miniature horse is housebroken; and
  - 4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary safe operation.
- C. Paragraphs III.A. through III.J., above, which apply to service animals, shall also apply to miniature horses.

#### V. Service Animals in Training

- A. As provided for in Utah law, service animals in training shall be granted access to District facilities, services, programs and activities.
- B. Paragraphs III.A. through III.J., above, shall also apply to service animals in training.

#### VI. Emotional Support Animals (ESA)

- A. The use of an Emotional Support Animals (ESA) (sometimes referred to as a "comfort animal") is considered a request for a reasonable accommodation under the Americans with Disabilities Act (ADA).

- B. A request for the use of an ESA must be supported by recent, reliable, objective medical documentation.
- C. Only domesticated animals will be considered as an ESA.
- D. The provisions of paragraphs III.A. through III.J., above, shall also apply to an ESA.
- E. Documentation regarding an ESA may be required to address legitimate safety requirements necessary for the safe operations of its programs, services, or activities.

VII. Unique Circumstances or Requests

- A. Circumstances or requests requiring special consideration shall be reviewed by the District Risk Coordinator in consultation with other appropriate District personnel (e.g., Section 504 Coordinator, ADA Coordinator, etc.).
- B. The District Risk Coordinator shall coordinate with State Risk Management prior to denying a service animal, a miniature horse, a service animal in training, or an ESA access to any District facility, service, program or activity.